

# **Deficiency Progress Report – Update 10**

Report Submitted: November 26, 2008

**CUPA: Tuolumne County Environmental Health**

**Evaluation Date: March 22 and 23, 2006**

**Evaluation Team:**

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**Corrected Deficiencies:** [1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 14, 15, 16, 17, 18, 19, 20](#)

**Next Progress Report Due:** [Will be determined during the 2009 CUPA Evaluation.](#)

- 3. Deficiency:** The CUPA is not inspecting HMRRP facilities once every three years.

**Preliminary Corrective Actions:** Inspect HMRRP facilities once every three years.

**CUPA's 5<sup>th</sup> Update:** The CUPA has inspected 62 HMRRP facilities this year. (see attached SWEEPS report)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA routinely inspected 62 HMRRP facilities in FY 06/07 which is a vast improvement from last FY's inspection total of 15. Keep up the good work! With 251 HMRRP facilities, the CUPA should routinely inspect at least 84 facilities each FY to maintain the mandated inspection frequency of one every three years. With that being said, the CUPA manager has done a terrific job of moving Tuolumne's UP in the right direction.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Update:** The CUPA has inspected 82 HMRRP facilities since July 1, 2006 (see attached SWEEPS report).

**Cal/EPA's 6<sup>th</sup> Response:** Cal/EPA would like the CUPA to perform 24 routine inspections on business plan facilities during the 2<sup>nd</sup> and 3<sup>rd</sup> quarter of the 07/08 fiscal year (48 inspections total). On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 7<sup>th</sup> Update (3-4-08):** The CUPA has inspected 20 HMRRP facilities since July 1, 2007 (see attached SWEEPS report).

**Cal/EPA's 7<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** The CUPA reports that it has inspected 20 HMRRP facilities between July 1, 2007 and March 4, 2008. In order to maintain the mandated triennial inspection of each facility, the CUPA should have inspected at least 56 facilities during this 8-month period. During the next 3 month period, the CUPA should perform at least 21 HMRRP facility inspections. Please report your progress on the next quarterly report.

**CUPA's 8<sup>th</sup> Update (6-4-08):** The CUPA has received 11 new HMBPs and 10 revised HMBPs since March 1, 2008. All of these plans have been reviewed by CUPA staff and either approved or sent back for any necessary revision. A total of 3 HMBP inspections were conducted, and staff will be conducting additional compliance inspections during the next reporting period. Considerable time has also been spent communicating with facilities in regard to updating their plans.

**Cal/EPA's 8<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** The CUPA reports that it has received 7 more new business plans than it has performed inspections. Once the business plan review has been carried out on these new facilities, the CUPA must put more emphasis on inspections (and business plan reviews, see #13 below), since it is further behind than the last reporting period. Please report your progress on the next quarterly report.

**CUPA's 9<sup>th</sup> Update (8-27-08):** The CUPA has inspected a total of 20 HMRRP facilities since June 1, 2008. Staff has begun conducting compliance/verification inspections for all facilities submitting revisions to HMBP. Of the 20 facility inspections completed 3 were for facilities previously not permitted by the CUPA (Inventory not yet entered into SWEEPS and therefore not shown on attached report). The CUPA now has 2 staff members conducting compliance inspections and expects to have no challenge completing at least 7 HMRRP inspections monthly.

**Cal/EPA's 9<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** The CUPA reports 20 inspections over the past quarter. If the CUPA can average about 21.5 inspections per

quarter, it will be on track to inspect all HMBP facilities once every three years. This deficiency has been corrected.

4. **Deficiency:** The CUPA is not inspecting Hazardous Waste Generators once every three years.

**Preliminary Corrective Actions:** Inspect Hazardous Waste Generators once every three years.

**CUPA's 5<sup>th</sup> Update:** The CUPA has inspected 49 hazardous waste generators this year (see attached SWEEPS report)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA routinely inspected 49 HWG facilities in FY 06/07 which is a vast improvement from last FY's inspection total of 0. Excellent work!

Due to the CUPA's corrective actions, Cal/EPA considers this deficiency corrected.

5. **Deficiency:** The CUPA is not inspecting Underground Storage Tank facilities once a year.

**Preliminary Corrective Actions:** Inspect Underground Storage Tank facilities once every year.

**CUPA's 5<sup>th</sup> Update:** The CUPA inspected 11 UST sites this year. (see attached SWEEPS report) The environmental health division is experiencing severe personnel shortages and currently there is no available ICC certified inspector on staff. Two staff were sent for testing and both failed the examination. Additional testing is being scheduled.

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA's UST inspection frequency for FY 06/07 is the same as last year. 11 out of 40 facilities have been routinely inspected. The shortfall is due to lack of ICC certified inspectors. The CUPA is actively seeking to correct this deficiency by scheduling ICC examinations for two of its staff members. In the mean time, the CUPA may want to consider contacting other CUPA's to see if any of their inspectors can inspect for them until they have qualified inspectors.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Update:** The number of facilities has not changed since the last progress report due to lack of ICC certified inspectors. The Environmental Health Division hired two new inspectors on October 1, 2007. This will alleviate the severe shortage in CUPA staffing. The ICC

certified inspector on staff was scheduled to return October 1, 2007 but took an additional year of military leave. The CUPA has planned to schedule staff to re-test for the ICC certification before the end of this calendar year.

Staff to attend CUPA conference in February 2008.

**Cal/EPA's 6<sup>th</sup> Response:** On the next status report, please provide an update on the progress toward correction of this deficiency. Include the total number of UST routine inspections performed during the 2<sup>nd</sup> quarter of the fiscal year.

**CUPA's 7<sup>th</sup> Update (3-4-08):** There are no current CUPA employees who are UST certified, therefore no routine inspections were conducted in the 2<sup>nd</sup> quarter. The CUPA has entered into an outside contract with a certified individual who will be able to conduct the inspections on a one day a week basis, and it is intended that all 40 inspections that are due will be completed by the end of the 4<sup>th</sup> quarter (June 2008).

**Cal/EPA's 7<sup>th</sup> Response:** Currently, there are 2 inspectors being trained to perform UST inspections. SWRCB will email some ICC training information to the CUPA to assist in the ICC certification process. On the next progress report, report the total number of UST routine inspections performed for FY 07/08.

**CUPA's 8<sup>th</sup> Update (6-4-08):** A total of 29 UST facilities have been inspected since the last report period, and the remaining 9 UST facilities will be inspected by June 30, 2008. Of the facilities already inspected, appropriate follow up has and is occurring to ensure violations are corrected. The contract staff performing the inspections has also been training the CUPA staff (trainee level) on conducting UST inspections and the various aspects of the CUPA programs.

**Cal/EPA's 8<sup>th</sup> Response:** The CUPA has made excellent progress toward correcting this deficiency. The CUPA plans to inspect the remaining 9 UST facilities by the end of the fiscal year. If the CUPA can demonstrate that the 9 remaining facilities have been inspected on the next progress report, this deficiency will be considered corrected.

**CUPA's 9<sup>th</sup> Update (8-27-08):** Compliance inspections of all permitted UST facilities were completed by June 30, 2008 (See attached spreadsheet). Current staff intends to attain ICC certification for UST inspector within the next two months to ensure that routine inspections of these facilities are completed on an annual basis.

**Cal/EPA's 9<sup>th</sup> Response:** Cal/EPA and SWRCB considers this deficiency corrected.

**10. Deficiency:** The CUPA has not inspected all (both) CalARP facilities within the past three years.

**Preliminary Corrective Actions:** Inspect all CalARP facilities once every three years.

**CUPA's 5<sup>th</sup> Update:** The CUPA has failed to inspect the CalARP facilities for this year. The CUPA does not have anyone on staff trained to do CalARP inspections. Staff has attended one training with its neighboring county, Stanislaus for CalARP training and has planned to do additional training of inspections for completing the CalARP inspections this year.

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA has not inspected any CalARP facilities for FY 06/07 due to lack qualified inspectors. Continue to train staff for CalARP inspections.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Update:** The CUPA has attempted to attain training for inspectors with no success. There is no available training for CUPA staff at this time. One of the two facilities was inspected in July 2005 and is not due for inspection until July 2008. The CUPA has not inspected any CalARP facilities for FY 06/07 due to lack qualified inspectors. Continue to seek CalARP training for CUPA staff. Attend CUPA conference in February 2008.

**Cal/EPA's 6<sup>th</sup> Response:** Continue to seek training for CUPA inspectors. Contact Jack Harrah with OES for more information about training opportunities. His number is 916-845-8759. I believe the next CalARP training will be held at the 2008 CUPA Conference in February. On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 7<sup>th</sup> Update (3-4-08):** The CUPA has not inspected either of the CalARP facilities during the first two quarters of FY 07-08. CUPA staff did attend the 2008 CUPA Conference, and will be working with the contractor to complete the Cal ARP inspections during FY 07-08. A full staffing analysis is included at the end of this memorandum.

**Cal/EPA's 7<sup>th</sup> Response:** Please refer to OES's response.

**OES's Response:** The CUPA has not performed any CalARP inspections. At OES' request, US EPA Region IX will be inspecting two RMP facilities in Tuolumne County on April 18, 2008. A representative of

OES will attend these inspections, and will be available to answer any questions the CUPA might have.

**CUPA's 8<sup>th</sup> Update (6-4-08):** Both CALARP facilities in the county were inspected on April 25, 2008 during a joint inspection with US EPA representative Robert Lucas. Neither facility was found to have any major violations.

**Cal/EPA's 8<sup>th</sup> Response:** Cal/EPA considers this deficiency corrected.

- **OES's Response:** The CUPA has participated in inspections on both CalARP stationary sources. Hopefully, this training will allow the CUPA to maintain the inspection frequency in the future. This deficiency has been corrected.

**11. Deficiency:** The CUPA is not obtaining inventories or inventory certification annually from all businesses subject to the Business Plan Program.

**Preliminary Corrective Actions:** Ensure that the next inventory submission is complete and correct.

**CUPA's 5<sup>th</sup> Update:** The CUPA has obtained inventories or inventory certification from 145 businesses this year. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response:** The CUPA has obtained inventories or inventory certification from 58% of their business plan facilities. Continue to obtain inventories or inventory certification from BP facilities.

On the next status report, please provide an update on the progress toward correction of this deficiency.

**CUPA's 6<sup>th</sup> Update:** The CUPA has initiated a new inventory for fiscal year 2007-2008 and continues to send out certification statements with our annual billing statement for each facility. (See attachments for current inventory for this fiscal year)

**Cal/EPA's 6<sup>th</sup> Response:** Current year inventories or annual inventory certifications must be received each year from all business plan facilities. According to the "Business Plan and Certification Log" spreadsheet, the CUPA has received about 24 out of 250 annual certifications for the first quarter of FY 07/08. If this trend continues, the CUPA will collect 96 out of 250 total annual certifications in FY 07/08. The total number of certifications received may change significantly if the CUPA bills more heavily at certain points in the year. Some CUPAs bill all of their facilities

during one or two months every year (i.e. all bills go out in January). Does this represent Tuolumne's billing practice?

**CUPA's 7<sup>th</sup> Update (3-4-08):** The CUPA bills the facilities on an anniversary date/monthly basis, with the bills being sent out two months prior to their permit expiration date. During the first two quarters of FY 07-08, thirty-four business plans were received and certified, and the attached spreadsheet indicates the plans that have been received. The Senior Office Assistant is responsible for the billings, with the Environmental Health Technician tracking those that have been received.

**Cal/EPA's 7<sup>th</sup> Response:** Please refer to OES's response.

**OES's Response:** As nearly as can be determined from the multiple "Business Plan & Annual Certification Log" documents supplied by the CUPA, approximately 45% (112 out of 251) have inventories or certifications dated within the past year. Please report your progress on the next quarterly report.

**CUPA's 8<sup>th</sup> Update (6-4-08):** Annual inventory certifications have been received from 51 facilities since March 1, 2008.

**Cal/EPA's 8<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** Even with an additional 51 certifications, the CUPA has still current on only about half of the inventories. Please report your progress on the next quarterly report.

**CUPA's 9<sup>th</sup> Update (8-27-08):** Since June 1, 2008 24 facilities have submitted either an annual inventory certification or a Business Plan with updated chemical inventory (see attached spreadsheets). Due to staffing shortages CUPA staff had previously not followed up with facilities who did not submit an annual certification. Current CUPA staff will work with the Senior Office Assistant to develop an efficient system for identifying facilities who do not submit a certification statement with their annual payment.

**Cal/EPA's 9<sup>th</sup> Response:** Cal/EPA considers this deficiency corrected. Please refer to OES's response.

- **OES's Response:** As nearly as can be determined from the "Business Plan and Annual Certification Log" spreadsheets, the CUPA has obtained 180 current business plans or annual certifications, out of 257 businesses, since September 2007. This represents about 70% of the total. While this does not represent complete compliance, it is an impressive improvement over the



past quarter and reflects a lot of effort on the part of the CUPA. This deficiency will be reassessed at the next evaluation, but for now, the deficiency is considered corrected, and OES appreciates the daunting workload this correction entailed.

**13. Deficiency:** The CUPA is not ensuring that Business Plans are being reviewed every three years.

**Preliminary Corrective Actions:** Ensure that any business plan more than three years old has a certification of review or that a new business plan is submitted.

**CUPA's 5<sup>th</sup> Update:** The CUPA is ensuring that Business Plans are being reviewed by requesting certification statement reviews from all businesses and by reviewing plans during the routine inspection of businesses. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response:** Refer to OES's response.

- **OES's Response:** Business plan 3-year review. It is impossible to tell from the supporting documents how many of the business plans have been reviewed in the past three years. If the CUPA is reviewing the entire business plan at the time of inspection, then this deficiency is tied to #3 above, and both will be corrected at the same time. CUPA should report progress with the next status report.

**CUPA's 6<sup>th</sup> Update:** The CUPA is reviewing business plans at the time of inspection. See deficiency 3 above.

**Cal/EPA's 6<sup>th</sup> Response:** The Excel spreadsheet submitted contains columns for business plan and annual certification receipt dates or notations (x). It was unclear what the business plan column was actually tracking. Was it tracking new business plans received or owner/operator certifications that current business plans have been reviewed and no changes were necessary? Cal/EPA and OES believes that it records both. Please clarify this in the next status report. Also report how many business plans have been reviewed within the last three years? As noted in Cal/EPA's response to deficiency #3 from the last status report, the CUPA needs to inspect about 84 businesses per year and verify during inspections that owners/operators have reviewed their business plans.

**CUPA's 7<sup>th</sup> Update (3-4-08):** The spreadsheets for the last three fiscal years are attached to this report, with certification referring to the annual report and business plan referring to the three year review process. The business plan data for FY 05-06 was not entered into the spreadsheet,



and is therefore unavailable. In the first two quarters of FY 07-08, fourteen business plans have been received and reviewed. As training is completed, the Environmental Health Technician will be working with the Senior OA to insure the compliance of business plans with state law.

**Cal/EPA's 7<sup>th</sup> Response:** Please refer to OES's response.

**OES's Response:** As nearly as can be determined from the multiple "Business Plan & Annual Certification Log" documents supplied by the CUPA, approximately 27% (68 out of 251) have business plans or 3-year review certifications dated within the past three years. Please report your progress on the next quarterly report.

**CUPA's 8<sup>th</sup> Update:** This ideally will be confirmed during routine inspections, refer to number 3 above.

**Cal/EPA's 8<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** Tying the business plan review to the triennial inspection means that if the CUPA is falling behind on its HMBP inspection frequency, it will also fall behind on the HMBP review. Currently, the CUPA is behind on its HMBP inspection frequency. Please report your progress on the next quarterly report.

**CUPA's 9<sup>th</sup> Update (8-27-08):** Triennial business plan reviews will be completed during triennial routine compliance inspections. As routine inspections are completed the CUPA is ensuring that facilities are educated in regard to the required triennial review and the CUPA's intention to complete the review at the time of the inspection. Therefore, for this and future reporting periods the number of HMBP reviews will be tied to number three above.

**Cal/EPA's 9<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** The three-year review has been tied to the inspection process. With the next update, please report the number of inspections and three-year reviews conducted over the quarter starting in September 2008.

**CUPA's 10<sup>th</sup> Update (11-26-08):** Since September 1, 2008 the CUPA has conducted a total of 16 routine compliance inspections. At the time of each routine inspection the current business plan is fully reviewed with the facility to ensure accuracy. If revisions are needed the facility is instructed to complete and submit all revisions to the CUPA within 30 days. If no revisions are needed the facility completes a new Owner/Operator page at the time of the inspection to reflect a new three year period

(Beginning/Ending Date) for the business plan. Each inspector is responsible for tracking the receipt of revisions from facilities they have inspected. Assuming this procedure is followed and assuming that the CUPA is inspecting facilities triennially, a three year review of the business plan by the facility will be ensured and tracked by the dates reflected on the Owner/Operator Page.

The number of routine inspections that should have been completed for this three month period, 21, fell short by 5 inspections. One inspector was absent from the office for 3 weeks for Hazardous Materials training and one inspector was gone from the office for 2 weeks, one for vacation and one for Hazardous Materials training. Since both inspectors are also responsible for implementation of all Environmental Health Programs, in addition to the CUPA program, adequate time was not available to complete all required inspections. The CUPA will attempt to complete a total of 26 inspections over the next three month period to compensate for the short fall this period.

**Cal/EPA's 10<sup>th</sup> Response:** Please refer to OES's response.

- **OES's Response:** With the next quarterly report, please update your progress. Also, please summarize the estimated total number of business plans that have been reviewed in the past three years vs. those for which you have no current business plan or certification.

**18. Deficiency:** While the former UST permit and conditions contained the required elements, the current UST permit and conditions does not contain all of the required elements.

**Preliminary Corrective Actions:** Develop a new UST permit and conditions containing the required elements as outlined in Title 23, Section 2712.

**Note:** The water board has stated that the CUPA may attach a monitoring plan to the permit to operate for UST facilities to correct this deficiency. All of the monitoring elements (included on the monitoring plan) must be included with the permit to operate.

**CUPA's 5<sup>th</sup> Update:** The CUPA has developed a new UST permit as outlined in Title 23, Section 2712. (see attachments)

**Cal/EPA's 5<sup>th</sup> Response:** Due to the CUPA's corrective actions, Cal/EPA considers this deficiency corrected. Please review the water board's response.

- **SWRCB's Response:** The water board has reviewed the permit. The CUPA may want to state that the document is a "Permit to Operate" Underground Storage Tanks at the top of the page. The conditions are located at the bottom of the page. They may wish to, also, include the construction of the tank; although it is not required by statute, it just makes the permit more complete to identify whether the tanks are single or double-walled, etc. Other than that the permit is acceptable.

**CUPA's 7<sup>th</sup> Update (3-4-08):** This issue will be discussed with the individual who is contracting for the UST Inspection Program. If appropriate, changes will be made to the permit document.

**CUPA's 8<sup>th</sup> Update (6/4/08):** The current UST permit used by this Division contains all required content, and will be mailed to you with the hard copy of this update.

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### **Staffing Summary**

Current CUPA staff consists of an EHS I and an REHS. The EHS I has been designated the lead in the UST program and is responsible for completion of all CUPA program reporting requirements. The REHS has been designated the lead in the HMBP, Hazardous Waste and Emergency Response programs. Both individuals are responsible for conducting routine compliance inspections, enforcement actions, facility outreach and oversight of hazardous materials remediation sites. The CUPA intends for both individuals to obtain ICC certification for UST Inspector and in addition both individuals are currently completing the modules for Hazardous Materials Technician, offered by CSTI. As has been the case previously both CUPA staff are responsible for providing routine services in all programs implemented by the Tuolumne County Environmental Health Division. As such there is no full time CUPA staff nor do the 2 individuals working in the CUPA program equate to a full time position. CUPA staff will continue to obtain appropriate training and work towards creating a program that meets all state and local expectations.